

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,	:	Case No. 3:07-cr-205
		Also 3:16-cv-2
Petitioner,	:	
- vs -	:	District Judge Thomas M. Rose
		Magistrate Judge Michael R. Merz
EDWIN ARTHUR AVERY,	:	
	:	
Defendant.	:	

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**ORDER ADOPTING SUPPLEMENTAL REPORT AND RECOMMENDATIONS**

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The Court has reviewed the Supplemental Report and Recommendations of United States Magistrate Judge Michael R. Merz (ECF No. 45), to whom this case was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby ADOPTS said Supplemental Report and Recommendations.

Accordingly, it is hereby ORDERED that the § 2255 Motion (ECF No. 41) be DISMISSED with prejudice. Petitioner is DENIED any requested certificate of appealability and the Court hereby certifies to the United States Court of Appeals that an appeal would be objectively frivolous and therefore should not be permitted to proceed *in forma pauperis*.

February 24, 2016.

\*s/Thomas M. Rose

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Thomas M. Rose  
United States District Judge